13

SPEECH

OF

Josiah Haddan

Mr. JOHNSTON, OF LOUISIANA:

THE RESOLUTION OF Mr. FOOT, OF CONNECTICUT,

RELATIVE TO

THE PUBLIC LANDS,

BEING UNDER CONSIDERATION.

25.10

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SPEECH.

Mr. PRESIDENT:

It is no vain ambition of display here, but a deep sense of my public duty, that induces me to trespass on the time and patience of the Senate. I have waited until every gentleman has spoken: the topics are exhausted; the attention wearied; the excitement has passed away; and I have neither the spirit nor talent to revive the interest or give animation to the debate.

The novel principles, and, as I think, the dangerous doctrines avowed here, as well as the extraordinary course pursued in the discussion, make it my duty to speak, however irksome the task, and however inadequately that task may be performed.

The attack made here, in behalf of the West, upon the North, is of a character to make it necessary for me to disavow the sentiments, and to disclaim for myself and for my State any participation in the charge. If it was the object of the gentleman of Missouri, [Mr. BENTON,] to transfuse his own feelings into the bosom of the West; if it was his purpose to excite prejudice there; if it was his design to wound the pride and sensibility of the North, by injurious reproaches and invidious comparisons, to exasperate the passions and alienate the affections of the People, he has been but too successful.

No one at a distance, without the means of explanation, can read that speech, with its formidable array of charges, specifications, and facts,—with its commentaries and criminations, and not feel the prejudice they were intended to excite.

It has been said, in the course of the debate, that *I* am a Western man, and the advocate of Western interests. Sir, I am a Western man. I feel a strong degree of attachment to the West. I will be her faithful representative. I will guard her interests and defend her rights. I shall be proud of her approbation. I am the advocate of Western interests,—not merely because they are Western, but because they are equally a part of the interests of my own State, and a part of the great interests of the whole.

In looking to the interests of my State, after the security of property and liberty under her own laws, I consider the stability of this Union as the greatest and highest concern. I look to the extent of this great country, its natural and political divisions, the objects of the Union, and the Constitution established for its government; and from these I deduce my duties. Under this Union we find a market for our productions, peace, security, and commerce, without which property would have no value, and liberty no enjoyment; and from these considerations I learn to cherish and defend it.

It comports with my own feelings, and with the sentiments of my constituents, to take the most enlarged and liberal views of all our great national interests.

While I agree, in general, with the gentleman from Missouri, about the interests of the West, I am compelled to differ from him entirely in the mode of securing them. What is the great interest of the Western States at this moment? To obtain some modification of the land system more favorable to the settlement of the West. And how does he propose to accomplish this object? By assailing the whole North, by charging them with systematic hostility to the West for more than forty years. He has ransacked the archives, collected every fact, arrayed every charge, and presented them under the highest coloring, to prove what can only exist in his imagination, a *settled policy, steadily pursued on the part of the North, to stifle the birth and cripple the growth of the West*, until he has driven every member, from a sense of pride, into an opposition to every scheme he may recommend. And has he gained the South, or a single vote in that quarter, more than he had before? Will they change their principles? Will the charge against the North, and the comparisons with the South, make any impressions on the South? Are they so easily won, and are they thus to be flattered out of their votes?

Sir, we had gained much in public opinion. The most favorable dispositions were manifested from all quarters. Several propositions had been made, by members of different States, of great liberality.

The member from Virginia [Mr. TAZEWELL] had some time since proposed, for great political considerations, to cede the lands to the States in which they lie. This was founded on the idea of placing the new States on a footing with the old States; to cut off the dependence upon the General Government; to diminish the patronage of office, and the expense of legislation, &c.

Another gentleman from New York, now in the Cabinet, [Mr. VAN BUREN] proposed to cede the lands for some reasonable equivalent.

We have had the graduating bill several times under discussion, and the object of graduating the price to the quality, and of reducing the price to settlers, the main object of the bill, has been much approved. The objection to it was as to the details—to the mode of obtaining the object. It embraces too large a quantity of land, and runs down the price too low and too rapidly. We have heard from the North and South during this debate, the most liberal principles on this subject. Without making any specific propositions, both the gentlemen from Massachusetts and South Carolina have the same enlarged, liberal, and statesman-like views. Our opinions began to approximate, and there was every reason to expect a favorable adjustment of this great interest. I regret that the gentleman has thought this a proper time to make this injurious attack upon a large section of country, of whose justice and liberality to the West we had so many proofs.

There appeared to me, besides the votes that have been referred to, a general coincidence of opinion between the North and the West, upon most questions of great public interest;—the construction of

the Constitution, the policy of the Government, and especially upon the Tariff, and all subjects of Internal Improvement. I regret this attempt, at this time particularly, to separate these interests. I deprecate the unfortunate influence it may exercise over our legislation.

Sir, I deny the right of the gentleman to speak in the name of the West. I deny his right to speak for me or for my State. I do not choose that any man should make political friendships or enmities for me or my State.

And I deny that the charge of hostility to the West has any foundation.

Against whom is this charge levelled? Against the North, including all the States north of the Potomac. And can it be intended to make this sweeping accusation against eleven States of the Union, and to induce the People of the West to believe that they have been, from the commencement of the Government, unfriendly to their interests? Yet all the charges equally affect the five middle States. It was unfortunate during the Confederation, that the Potomac was considered the line that separated the North and the South, and it no doubt at some times exercised an unfavorable influence upon legislation. There was a general coincidence of opinion in the States north of that line, upon all great questions of that period, and so there was upon all the subjects affecting the Western country, but without the slightest feeling of hostility towards it. In all the great measures taken in reference to the navigation of the Mississippi, the Southern boundary line with Spain, and the defence of the West, they were actuated by their own patriotic views of the great interests of the country, under the peculiar and often pressing circumstances of the times. In the midst of a war of great sacrifice and suffering, in which every nerve was exerted, the whole South overrun, how could they go to the relief of the West? Instead of these reproaches from the West, they ought to receive the homage of our gratitude for the firmness, the fortitude, and constancy, with which they carried us through the trying scenes of the Revolution.

No great measure that was adopted, requiring the consent of nine States, could be carried, without the votes of at least five of these Northern States.

Will not New York, and New Jersey, and Pennsylvania, Delaware, and Maryland, see, that they concurred with the other Northern States in all the measures of hostility imputed to them? That their names are formally arranged, side by side, in high relief, with the States of the North? And will they comprehend how they escape from the charge? Will they see how the exception can exclude them from all the odium, if any, that these measures are calculated to excite in the minds of the people of the West?

But, sir, New England is the real point of attack. No, not even New England, not the republican party of New England, which constituted, at every period for the last twenty years, not less than one-half of the people of that section; and, especially, he excludes the democracy of the North, as they are now called, *par excellence*, to dis-

tinguish some of them from their republican brethren here, who now represent the North. The attack is aimed only at the Federal party there. But then that party is mostly extinct. None have joined the ranks since 1801. No politician coming into life since that time, has found it wise or expedient to try to stem that current. There can be no Federalists now, (except the very few who are so from family pride or real independence of character,) under fifty years of age. Besides, many of the veterans have died, or retired from the theatre of public life. Those that remain, have suffered the ban of the republic, in the form of proscription, for twenty-eight years. Many of them, during the era of good feeling, in the belief that the contest was injudicious and unavailing, have given in. The few men that remain, advanced in life, seem still to be the objects of bitter and unrelenting persecution. But, sir, the accusation does not go even to this small remnant. It excepts all those who supported the last war. It is aimed, then, it is said, at the Hartford Convention; no, not even those of that class who have supported the election of the President; they have received absolution; and of them, it has been said in debate, there are many intelligent and honest men who had no improper designs, and were misled by the few ambitious leaders of the Convention. Against whom, then, is the accusation levelled? This bold charge, then, against the North dwindles down at last to be a mere attack on a few old and retired politicians of the Hartford Convention; and, to sustain the charge, it is necessary to array before the public the votes of all the States of New England, New York, New Jersey, Pennsylvania, Delaware, and Maryland, in regard to the defence and settlement of the West, during all the eventful period of the Revolutionary war.

But, sir, what does the charge turn out to be? a system of hostility, pursued many years to prevent the settlement of the West. These charges and the facts adduced to establish them, have been fully examined and explained, by both Senators from Maine, (Messrs. SPRAGUE and HOLMES.) They have done their duty, by vindicating their country. Sir, I take a very different view of the subject. The charge involves a palpable incongruity of conduct. The States demanded the cession of the Western lands as a part of the acquisition of the war, and for the purpose of applying their avails to discharge the debt created in carrying it on. They contended with Spain, during a long and arduous negotiation, for the utmost Southern boundary, and finally established the thirty-first degree of North latitude. They instructed the minister to adhere to this line, and would not even authorize the treaty, without its final ratification by themselves. They afterwards gave Georgia more than a million of dollars, and undertook the extinguishment of the Indian title. They subsequently paid five millions of dollars to settle the Yazoo Claim. The country North West of Ohio was conquered from the Indians, after a conflict of several years, at an expense of five millions of dollars. They have besides, paid large sums for the extinguishment of Indian titles. They established the Ordinance of 1787, for the government of this Territory, and passed laws for the surveying and sale of the lands; and now, it is gravely

said, that they have pursued a systematic course of hostility to the West; that these sagacious and intelligent men, who have acquired these lands at so much cost, and who pursued this object with so much perseverance, and for so long a time, had no object in view, but to stifle the birth, and cripple the growth of the West. The whole charge is utterly inconsistent with itself; and the facts themselves refute it.

After the acquisition of an immense territory, by cessions from the States, and by treaties with Foreign Nations at a vast expense, and after securing it by conquest or by purchase of the Indians, they adopted a wise and paternal system of administration. The whole has been divided into territories of convenient and compact size, that now form States of the Union. There are six Surveyor Generals' offices, and more than two hundred millions of acres of land surveyed and ready for market. These lands are divided into squares of six miles, and subdivided down to eighty acres, so as to suit every class of purchasers. There are forty-two Land Offices in the most convenient situations for the sale of the lands; the price was reduced in 1820, to one dollar and twenty-five cents per acre; and several preemption laws have passed, to secure the rights of settlers, and a general privilege of entering at the minimum price, any land that has been once offered for sale. There is nothing in all this, that seems to indicate a spirit of hostility to the growth of the West. The conduct of the Government has been marked by extreme liberality as well as wisdom, towards the new States. They gave them one twentieth of the proceeds of the sales of the lands for roads. One section in every township for schools, and two townships in every State for colleges, in consideration of exempting these lands from taxation for five years after the sale. Besides this five per cent., they have appropriated more than a million and a half of dollars to the Cumberland Road, and its continuation through the Western States, besides the proceeds of the five per cent. They have given more than two millions of acres of land to different Western States for canals; and they released purchasers of public lands to an immense amount. These lands were ceded to the Government, and pledged for the payment of the public debt; they have been disposed of, with that view. They have brought into the Treasury, near forty millions of dollars. The price has been moderate, such as to enable the people to buy, and to prevent the acquisition of large quantities on speculation. And what is the result? More than four millions of industrious and intelligent people, more than the original stock at the Revolution, a country highly improved, and rapidly advancing. If it was the object of the North to prevent the growth of the West, they have been singularly unfortunate. Great and flourishing communities have risen up in the wilderness, in spite of their supposed hostility.

The reduction of the price to one dollar twenty-five cents, in the year 1820, is now brought as a serious charge. It became a matter of prudence and necessity, in consequence of the great and increasing rage for speculation, which had raised the debt from eight millions, to twenty-one and a half millions, in less than three years. The

Government wisely stopped the credit system, which put an end to purchases on speculation, reduced the price, and then generously gave relief to the People. The continuation of that system would have created an immense debt in the West to the General Government, oppressive to the inhabitants, and ruinous to the country. It is greatly to be regretted, that the change had not been made when the debt began to accumulate.

But, sir, let us return to the other charges:—

The charge of surrendering the navigation of the Mississippi, is again renewed, to give color to the idea of hostility to the West. Mr. Madison says, that soon after the commencement of the war with England, at the period of greatest distress, the Northern and Eastern States, refused to relinquish the navigation, even for the substantial aid and succour of Spain, "*sensible it might be dangerous to surrender that important right, particularly to the inhabitants of the Western Country.*" And when instructions were afterwards given to our Minister to negotiate a treaty, it was expressly enjoined upon him, to stipulate for the right of the United States to their territorial bounds, and the free navigation of the Mississippi, from the source to the ocean, as established by treaties with Great Britain, and that he neither conclude nor sign any treaty, until he had communicated the same to Congress, and received their approbation. Congress had obtained, from Great Britain, a recognition of a conditional boundary, to extend to the thirty first degree of north latitude, and the right to navigate the Mississippi. These instructions evince the determination of Congress, to maintain their territorial rights to the utmost Southern limit, and with them the concomitant right to the free use of the river. And so jealous were they, of these rights and privileges, that the Minister, the then Secretary of Foreign Affairs, Mr. Jay, a man of great public confidence, was not permitted to conclude a treaty without the approbation of Congress.

The United States, exhausted by the war, destitute of funds, without public credit, with an inefficient Government, were in no situation to go to war with Spain, then connected with France and other powers of Europe. On the contrary, it was our policy to form a commercial treaty, then proposed to her on the most favorable terms, and to prevent any coalition with England. After the most urgent representations were made by our Minister, with regard to the navigation of the river, "the *concluding answer*, said he, *to all my arguments, has steadily been, that the king will never yield that point, nor consent to any compromise about it; for that it always has been, and continues to be one of their maxims of policy, to exclude all mankind from their American shores.*"

The Minister of Foreign Affairs, [Mr. Jay] in this situation, reported to Congress, that the treaty with Spain was of great political and commercial importance; that, unless this point could be settled, no treaty, however advantageous, could be concluded; that Spain then excluded us from that navigation, and held it with a strong hand against us; that she would not yield it peaceably, and therefore we could

only acquire it by war; that we were unprepared for war with any Power; that the Mississippi would continue shut, France would tell us our claim was ill-founded, the Spanish posts on its banks would be strengthened, and we must either wait in patience for better days, or plunge into an unpopular and dangerous war. In this situation, he submitted to Congress the expediency of yielding our right to Spain for twenty-five years, without waiving our right to resume it, at a time, when we should be more competent to maintain it. On one side were presented peace, commerce, and friendship, with a powerful State—on the other, war, with all its evils, in defence of a valuable right, or the waiver of that right for a limited time, with a view to its permanent security. Seven Northern and Eastern States, including New York, New Jersey, and Pennsylvania, were in favor of making this proposition; a sacrifice they felt bound to make, under the peculiar and pressing exigencies of the times; "but there was not," (said Mr. Lee, in the Virginia Convention,) "a gentleman in that Congress, "who had an idea of surrendering the navigation of that river." And Mr. Madison said, "*they had no idea of absolutely alienating it:*" "*the temporary cession, it was supposed, would fix the permanent* "*right in our favor, and prevent a dangerous coalition with England.*" Whatever opinion may be now formed of the wisdom of this proposition, it must be manifest that no feeling of hostility to the West influenced their judgment. They obtained the greatest possible concession of territory from England; they maintained our right through this whole negotiation, to the 31st degree North latitude; they tried by every means to obtain the navigation of the river from Spain; and it was not until all hope was abandoned that they consented, as the means of peace, and, to avoid a war, for which they were unprepared, to forbear the use of it until a more favorable period. But they did not stop here: they instructed the Secretary of Foreign Affairs to *propose, and, if possible, to obtain,* the right to transport our productions from the 31st degree to New Orleans, with a right of deposite at New Orleans, &c.; but nothing was done under these instructions, and the whole subject was referred to the new Federal Government. A treaty was eventually made with Spain, which secured to us the 31st degree of North latitude, our utmost Southern boundary, the right to navigate the river, with a deposite at New Orleans, &c. The Government immediately obtained a cession of the lands embraced by this treaty, from the State of Georgia, erected two Territorial Governments, extended over them the laws of the Union, extinguished the Yazoo title, adjusted the private claims, and, so far from feeling that the growth of the West was incompatible with the interest of the North, they have done every thing to foster it. The Government, having expended more than seven millions of dollars in the acquisition of this country, are now accused of the folly and absurdity of preventing its growth and settlement.

When, at a subsequent period, the right of deposite was violated, these men, who are now aimed at, maintained, with more spirit than prudence, the right of the United States to the free navigation of the

river, and proposed to authorize the President to take possession of New Orleans. But Mr. Jefferson entertained more wise and moderate views. He proposed to obtain redress by pacific means, and instituted the Embassy which fortunately terminated in the acquisition of Louisiana, and these are his sentiments on the subject:

"The question which divided our Legislature, (but not the nation) "was, whether we should take it at once, and enter, single-handed, "into war with the most powerful nation on the earth, or place "things on the best footing practicable for the present, and avail "ourselves of the first war in Europe, (which it was clear was at no "great distance) to obtain the country as the price of our neutrality, "or as a reprisal for wrongs which we were sure enough to receive. "The war happened somewhat sooner than was expected: but our "measures were previously taken, and the thing took the best turn "for both parties. Those who were honest in their reasons for pre-"ferring immediate war, will, in their candor, rejoice that their opi-"nion was not followed. They may, indeed, still believe it was the "best opinion, according to probabilities. We, however, believed "otherwise, and they, I am sure, will now be glad that we did."

The gentleman from Missouri has accused the Federal Government of entire neglect and abandonment of the West, from 1774 to 1790. He has presented a shocking picture of savage warfare. This is a chord that will vibrate in the West, and is well calculated to excite prejudice in the minds of those, who have not the means of correct information. He might with equal propriety have given us a description of the distress, and suffering, and sacrifice, of the Revolutionary war in the East; during which all our cities were successively occupied by the enemy, and during the three last years of which the whole South was overrun and laid waste. The People knew that, in going to the West, at that period, they went beyond the protection of the Government, that it had neither the means nor the men to give succour or relief. He comes down, however, to the year 1786, to accuse the *North* of "unrelenting severity" towards the West. No charge was ever more unjustly made. Instead of taking an enlarged and liberal view of the general policy of the Government in regard to the Indians of the West, he has singled out a particular occurrence, in which there was a difference of opinion, not in relation to the object, but in the mode by which both sides sought to obtain it. Both parties in this question were anxious for peace with all the Indians, but entertained views somewhat different as to the mode in which that object was to be obtained. One party desired to give peace and security to the frontiers, by amicable treaties with the Indians—the other by military force; but neither for a moment thought of abandoning the West. As soon as the definitive treaty was signed, Congress set on foot Conventions with all the Indian tribes, and, to expedite the holding of treaties, three hundred and fifty men were held in readiness to protect the Commissioners. Treaties were successively made with all the tribes of Indians. In 1785 a treaty was made with the Wyandots, Delaware, Chippewa, and Ottawa tribes, and on the 31st January, 1786, a treaty was concluded

at the mouth of the Great Miami, with the Shawnee nation. Seven hundred men, drawn from New England, were placed in the Western country, to defend the frontiers. Congress were pursuing steadily this system—when, in consequence of some depredations, the South conceived the necessity of marching a large armed force into the Indian country, to compel them to make peace. The North considered these as irregular parties, making incursions without the authority of the tribes; and thought that they ought to organize the Indian department, and adopt such measures as would secure peace to the Indians and safety to the inhabitants of the frontiers.

The resolution to detach four companies had the approbation of but one State,—the resolution to detach two had the negative of but one State. The objection, therefore, was to the number of companies to be moved, and to weakening the other points of defence. The North was opposed to carrying the war among the Indians, but in favor of employing the militia for defence, when necessary. The South desired "an expedition into the Indian territory," and to call out one thousand militia. The North desired to treat with the Indians amicably, to avoid *war* and *expense*, and to use the military only for defence. They were unwilling to make war, because they thought the object could be better obtained by peaceful means—they were unwilling to incur the expense, in their exhausted situation, of calling out one thousand militia—they were unwilling to derange the disposition of the regular troops that had been stationed at all the proper points of defence along the line of the Ohio. But they passed a resolution on the 30th June, 1786, to inform the Governor of Virginia, that they were desirous to give the most ample protection, and they requested him to give orders to the militia to be in readiness to unite with the regular troops, in such operations as the commanding officer may judge necessary for the protection of the frontiers. On the 20th of October, 1786, Congress resolved, unanimously, to raise one thousand three hundred and forty troops, in addition to the seven hundred, "to "form a corps of two thousand and forty," not only "for the sup- "port of the frontiers of the States bordering on the Western Ter- "ritory and the settlements on the Mississippi, but to establish the "possession and facilitate the surveying and settling those interme- "diate lands, which have been so much relied on for the reduction of "the debts of the United States." And, on the 21st of July, 1787, Congress resolved to hold treaties with these hostile tribes—to hear their complaints—and inquire into the causes of their quarrels with the settlers, and to make peace: that, for this purpose, the troops should be placed in such positions as to afford the most effectual protection to the frontier inhabitants of Pennsylvania and Virginia, from the incursions and depredations of the Indians—for preventing intrusions on the federal lands, and promoting a favorable issue to the treaty: that the Governor of Virginia be requested, on the application of the commanding officer, to embody a part of the militia, not exceeding one thousand, to co-operate with the troops of the United States, in making such expeditions against the Indians as Congress may direct, &c. These resolutions passed unanimously, Massa-

chusetts, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, voting in favor of them.

Now, this insulated case is singled out, disconnected with the whole subject matter, and spread before the Western People, to induce a belief, that, in consequence of Northern jealousy and Northern hostility, they utterly, and unfeelingly neglected to give any protection to the West against the Indians. The effect of it may be to excite prejudice, to create dissension, and set apart the People of the different sections of the country ; but, when examined, it will be found destitute of any foundation.

In pursuance of this system, a treaty was concluded 9th January, 1789, at Fort Harmar, by General St. Clair, with the Wyandot, Delaware, Ottawa, Chippewa, Pottawatamie and Sacs Nations of Indians. But difficulties continued to occur with the Indians, until the Government was obliged to send a military force to conquer them, which was finally accomplished in 1794, and was followed by the Treaty of Greenville. Throughout this whole period, from 1786 to 1794, Congress labored with the most patient, persevering, and patriotic exertions to procure peace for the Indians, and safety to the frontier ; and now the gentleman from Missouri says " that Massachusetts and the North-East abandoned the infant West to the rifle, the hatchet, the knife, and the burning stake of the Indian." But, this charge relates equally to all the States North of the Potomac, and to a period anterior to the existence of the Republican and Federal parties ; and, it has been seen with what justice it is made against any portion of that Congress, to whose patriotic services and public labors the country owes so deep a debt of gratitude.

We now pass over a period of twelve years from the formation of the Constitution, to the acquisition of Louisiana, during which there is no charge of hostility to the settlement of the West.

The cession of Louisiana was obtained in 1803, when political parties were very violent ; when some feared that an enlargement of our limits might weaken the Union, and others thought, conscientiously, that there was no power in the Constitution to acquire territory. Yet, under these circumstances, there were twenty-seven votes in the Senate in favor of the treaty, and half of these North of the Potomac, and four from New England. This shews that there was no unity in the North—no concert even in the Federal party—no hostility to the West.

It is well known that many wise and excellent men believed the acquisition was an extra Constitutional act, and that it would require an amendment to the Constitution. Mr. Jefferson entertained this opinion himself. In his letter to Mr. Dunbar, July 17, 1803, he says : " they (Congress) will be obliged to ask from the People an amendment to the Constitution, authorizing the receiving the Province into the Union, and providing for its Government ; and the limitations of power which shall be given by that amendment, will be unalterable, but by the same authority." In his letter to Mr. Breckenridge, 12th August, 1803, he says : " This treaty must, of " course, be laid before both Houses, because both have important

"functions to exercise respecting it. They, I presume, will see their "duty to their country in ratifying and paying for it, so as to secure "a good which would otherwise probably be never again in their "power. But I suppose they must then appeal to *the nation for an "additional article to the Constitution, approving and confirming an "act which the nation had not previously authorized. The Constitu- "tion has made no provision for our holding foreign territory,* STILL "LESS FOR INCORPORATING FOREIGN NATIONS INTO OUR UNION. "*The Executive, in seizing the fugitive occurrence* which so much ad- "vances the good of the country, *have done an act against the Consti- "tution.*"

It is well known that Mr. Adams entertained the same opinions, and he thought that the consent of the People should be obtained by an amendment to the Constitution and the approbation of the People of Louisiana. "It is well known" said he, "that my voice and my "opinions were in favor of the acquisition of Louisiana, and of the "ratification by which it was acquired." "Entertaining these opini- "ons, I voted for the bill appropriating $11,250,000 to carry into "effect the Louisiana Convention; and, in a speech to the Senate on "the passage of that bill, I declared at once my approbation of the "measure, and my belief, that, to carry the treaty into entire exe- "cution an amendment to the Constitution would be necessary;" and he moved the appointment of a committee to inquire whether any, and if any, what further measures were necessary to carry into effect the Louisiana cession treaty; to prepare "for the annexation of the Peo- "ple of Louisiana to the North American Union, and their accession "to all the rights, privileges, and prerogatives of citizens of the "United States."

In his speech on this subject, Mr. Adams said:

"I am extremely solicitous that every tittle of the engagements on "our part in these conventions should be performed with the most "scrupulous good faith." "I trust they will be performed, and will "cheerfully lend my hand to every act necessary for the purpose, for "I consider the object as of the highest advantage to us; and the "gentleman from Kentucky himself, who has displayed, with so much "eloquence, the immense importance to this Union of the possession "of the ceded territory, cannot carry his ideas further on that sub- "ject than I do." "I shall give my vote in its favor."

I have quoted these opinions of Mr. Adams, to shew, that none of these imputations rest upon him, and, that there may be no misapprehension or doubt left even by implication.

"It was," he says, "upon the same principle, a conscientious be- "lief that Congress had not, by the Constitution, the power to exer- "cise the authorities, (without an amendment of the Constitution) "that I voted against the other acts relating to Louisiana." "There "remains in the country a power competent to adopt and sanction "every part of our engagements, and to carry them entirely into exe- "cution. For, notwithstanding the objections and apprehensions of "many wise, able and excellent men in various parts of the Union, "yet, such is the public favor attending the transaction, which com-

"menced by the negotiation of this treaty, and which, I hope, will "terminate in a full, undisturbed, and undisputed possession of the "ceded territory, that I firmly believe, if an amendment to the Con- "stitution amply sufficient for the accomplishment of every thing for "which we have contracted shall be proposed, as I think it ought, it "will be adopted by the Legislature of every State in the Union."

Mr. Adams gave a signal instance of his freedom from all party influence, of the independence of his mind, and the elevation of his views over all ordinary, local and political calculation, in approving the acquisition of Louisiana.

When, some years afterwards, the attack was made on the Chesapeake by a British ship of war, Mr. Adams was among the first to take side with the country, and to pledge himself to aid and assist the constituted authorities with all his personal influence and exertions to support them in such measures as they might adopt. He attended the meetings of the People in Boston to express their sentiments, and they are worthy of the place and the occasion. He was on the committee that proposed the resolutions for the first meeting, of which Mr. Gerry was moderator, and chairman of the committee which reported the resolutions at the second meeting.

Boston, 10th July, 1807.

Mr. Gerry, Moderator—George Blake, Secretary.

Resolved, unanimously, That the late aggression committed by a British ship of war, on a frigate of the United States, for the avowed purpose of taking from her, by force, a part of her crew, was a wanton outrage upon the persons and lives of our citizens, and a direct attack upon our national sovereignty and independence: That the spirited conduct of our fellow-citizens at Norfolk, on this occasion, before the orders of Government could be obtained, was highly honorable to themselves and to the Nation.

Resolved, unanimously, That the firm, dignified, and temperate policy, adopted by our Executive, at this momentous crisis, is entitled to our most cordial approbation and support.

Resolved, unanimously, That, with all our personal influence and exertions, we will aid and assist the constituted authorities in carrying the Proclamation of the President of the United States, in every particular, into full and effectual execution.

Meeting, Faneuil Hall, 16th July, 1807.

Mr. Adams, Chairman of the committee.

Resolved, That we consider the unprovoked attack made on the United States' armed ship Chesapeake, by the British ship of war Leopard, a wanton outrage upon the lives of our fellow-citizens, a direct violation of our national honor, and an infringement of our national rights and sovereignty.

Resolved, That we most sincerely approve the proclamation and the firm and dispassionate course of policy pursued by the President of the United States, and we will cordially unite with our fellow-citizens in affording effectual support to such measures as our *Government may* further adopt in the present crisis of our affairs.

This was an insult to our flag, and an outrage on our sovereignty; it was an affair between our country and a foreign nation—they sacrificed all party considerations. When Mr. Adams came to Congress, this affair not atoned for, he made good his promise; he determined to support the administration in any course they might adopt to vindicate the honor of the country. The President recommended the embargo, and Mr. Adams gave it his unqualified support, because he believed it a wise and prudent measure of precaution, and because he

was unwilling to thwart the views of the administration for party purposes, and because he had solemnly pledged himself to give effect to such measures as the Government should adopt upon its responsibility.

The measure, no doubt injurious to the Northern interests, became unpopular, and Mr. Adams, in obedience to his principles, resigned the trust into the hands of his constituents, andretired, but continued, in private life, to give his advice and opinions to the friends of the administration, when required, upon the difficult questions that arose in that crisis of our affairs.

The embargo locked up the navigation, and destroyed for the time the commerce of the North. It produced great private distress, and ruined thousands. It is not, therefore, extraordinary, that a measure so severely felt should have been opposed. They believed an embargo, without limitation of time, that destroyed commerce, to be a violation of the constitutional power of Congress to regulate commerce. They submitted the case to the Courts, it was decided against them, and they acquiesced. But the opposition to the embargo grew out of their sense of their own interests, and not from mere political hostility. The embargo was repealed and the non-intercourse substituted in March, 1809, which led immediately to the arrangement with Erskine, upon which all parties expressed the highest satisfaction. Mr. Randolph moved in the House of Representatives, "that the promptitude and frankness with which the President of the United States "has met the overtures of the Government of Great Britain towards "a restoration of harmony and free commercial intercourse between "the two nations, meet the approbation of this House."

The Federal members now expressed their hearty approbation of the President, and thanked him cordially for the country. They said— "The promptitude and frankness with which the President has met "the overtures of Great Britain, while they receive the applause and "gratitude of the nation, call not less imperiously for an unequivo- "cal expression of them by the House."

The Governor of Massachusetts said to the Legislature—

"We have great reason to indulge the hope of realizing those views "(arising from a revival of commerce) from the prompt and amica- "ble disposition, with which it is understood the present Federal admin- "istration have met the conciliatory overtures of Great Britain—a "disposition which is entitled to and will certainly receive, the hearty "approbation of every one who sincerely loves the peace and prosperi- "ty of the nation." The Senate and House of Representatives replied, "that the prompt acceptance of the overtures of Great Britain meets "the approbation and will ensure the support of this Commonwealth." These sentiments seem to indicate that the opposition heretofore had been founded in principle, and not in political hostility to the Executive. The arrangement was disavowed by the Government of Great Britain, and the non-intercourse restored. Mr. Adams left the country on a foreign mission, under the appointment of Mr. Madison. He was absent during the war, and officiated as one of the American ministers in negotiating the treaty of peace. He returned in 1817, and was appointed by Mr. Monroe, Secretary of State.

It is further charged that the Legislature of Massachusetts in 1813 resolved, that the admission into the Union of States created in countries not comprehended within the original limits of the United States, is not authorized by the letter, or spirit of the Constitution; and that it was the interest and duty of the State to oppose the admission of such State into the Union, as a measure tending to a dissolution of the Union. And it is said, *I* adhere to a party opposed to the admission of Louisiana into the Union. Sir, is that in any sense true? What have I to do, or any existing party, or Mr. Adams, with the persons who opposed the acquisition of Louisiana, twenty-seven years ago? They are all gone from the theatre of public affairs. Mr. Adams was not united with them, and they have ceased to exist as a party. It is seventeen years since the passage of this resolution. Mr. Adams was not in the country. The interests and passions and excitements of that day have passed away; new men and new parties have arisen, with different principles and other views. New England was revolutionized and republicanized, as you may see by her delegation here, many of whom have been personally alluded to on the floor. Massachusetts did not declare it a palpable violation of the Constitution, and that she had a right to put forth her *veto*, and annul the act. And, sir, what is there to connect me in any party with this Resolution, that does not equally attach the gentleman himself to the anti-Tariff resolutions of South Carolina, and make him responsible for them.

He, Mr. Adams, has been charged with sacrificing the interests of the country, in establishing the western boundary, in the treaty with Spain. This charge has been reiterated through the papers of the West, where it has been greatly misrepresented or misunderstood.

That negotiation was conducted with great ability, and our title to the River Grande fully sustained. But it was the object of the Spanish Government in ceding Florida to save the Province of Texas. Her Minister proposed the Mississippi as the boundary, and adhered to that proposition; he seemed determined not to yield any thing beyond that line. The great importance of securing Florida, induced our Minister to propose the Colorado, which was rejected promptly. At this point, the negotiation came to a pause, and its entire failure was anticipated. The subject was reconsidered by the cabinet, and a compromise was proposed, and at length accepted, which fixed the boundary at the Sabine River. This was done to secure the Floridas, and after every means had been tried in vain to obtain a greater extension of our limits. It was done by the whole of the Cabinet of Mr. Monroe, upon full consideration of all the great interests it involved, and was finally approved by the Senate.

Sir, I have aimed to set the character of Mr. Adams fairly before the Senate, and to vindicate him from the imputations cast upon the North. He has filled the highest stations at home and abroad, at the most critical junctures, with the greatest ability; possessing a mind so firm and so balanced as to preserve its independence and its principles, free from all political influence, he has advocated the best interests of his country, and avoided the errors of parties. He sup-

ported the two great leading measures of Mr. Jefferson's Administration. He represented this country abroad during Mr. Madison's term, and participated in the Treaty of Peace. He was eight years in the Department of State, and negotiated the Florida Treaty; he has been four years at the head of this Government—a man of great learning and experience—of uncommon grasp of mind—of indefatigable labor. And now, sir, it is said "the Senator of Louisiana, adheres with a generous devotion, (I call it generous, for it survives the *downfall of its object*,) to that party that passed this resolution."

It may well excite the surprise of the gentleman, that, with the examples before him, and with the temptations before me, I have not also deserted the party, after the downfall of its object. I have the weakness no doubt of other men, and all the motives of interest and ambition that govern them. My support of that party was founded in principle, and was disinterested. They who supported this cause from motives of interest or ambition, may desert it without any violation of their principles, for it will be their principle to desert any cause, as soon as it ceases to be their interest.

If it is meant that I have not deserted the object of the party, in consequence of his defeat, it is correct. I did not ride into favor on his popularity, and then desert him: I did not watch the ebb of his fortune to throw myself adroitly into the current and swim with the tide. Sir, I want the moral courage to desert a cause or betray a party. I could not encounter the averted eye, the cold disdain, or the indignant scorn of my friends: I could not bear my own self-reproach, or the odium of the public, from which no man can escape, he can never be forgotten for his desertion, nor forgiven for his treachery. I am less surprised when I see all the offices, emoluments, and honors of the Government distributed among the victors, at the facility with which pledges were violated and the cause betrayed, than the gentleman can be at my adherence. It was no want of sagacity in me. I can calculate chances and balance probabilities as well as those who know better how to avail themselves of their talents; and if I could not, I had as much intelligence as the Dutch Governor of New York, who could always tell which way the wind blew by the weathercock.

When the Presidential election terminated, leaving one party free, every one saw, it threw the balance of power into their hands, and those who understand the springs of human action, know the invariable law by which minorities combine. When it was known, one party had ninety-eight votes, and that thirty-three would turn the scale, it required no mathematician to calculate the chances; and when I heard a voice saying, "*the combinations are nearly complete*," I was at no loss in making my calculations. It required no magician to work out the results, it was as plain as that two sides of a triangle are longer than the third side.

When things stood thus in January 1826, we were not surprised that those who knew the signs of the times, should desert us. We knew there was a tide in the affairs of men, which must be taken at the flood. We knew they would desert us, exactly as the chances

increased, and we are not disappointed at the great accession in a certain quarter, since the event is no longer doubtful.

When the rats began to leave the ship, I was warned of the danger, and if I did not avail myself of it, to seek safety in time, it was my own fault.

But, sir, that contest is over. My principles have undergone no change. I shall vote for all public measures, and take the same interest in them, and act with the same zeal, I have always done. I have kept my mind free from the spirit of party, and above the influence of political feeling. I trust my principles and my political opinions, and my views of the great interests of the country, will never suffer the slightest change, whoever may be called to preside over it.

The present party in power is a mere personal party; it is composed of men of all parties, who never agreed in any measures of administration before. Nay, it is composed of men of opposite principles, and of the most heterogeneous elements; men who may combine, but can never adhere. It was formed for good reasons no doubt; but it was at best, a mere personal preference of one man to another. Now to change sides, requires no change of political principles, and may greatly advance a man's fortune; besides, it is a stale, unprofitable thing, to be struggling against power and numbers, in a hopeless minority, and working in that barren field, where there is neither executive favor, nor popular applause, nor public honor.

If the condition of adhering to the executive is to sacrifice principles to sustain his measures, then it is a dangerous connection, and will produce the most fatal effect. It is to make one overruling power in the Government; a power capable of drawing after it every other power, even the power of the People. And if the President, armed with the extraordinary power now claimed, over all the offices, emoluments and honors of the Government, does not draw after it the Representatives of the People, and the aid of the press, it is because they are above the influence. And if adherence to a party produces no effect, and lays us under no obligations or restraints, and we preserve our independence, and vote as we please, I can perceive no great use in changing sides, or changing names, so far as the country is concerned: those who have objects beyond that, may no doubt obtain them in that mode.

The gentleman has said, we were once together, and intimates a wish that we may meet again. Sir, it is not at all improbable. Those who travel in opposite directions on the political circle, are sure to meet. The changes of public opinion, and the combination of parties are so rapid, that no one can foretell where, or with whom he may be found. When I look around, and see who are together, and how we have been separated, and remember where you have all been, I cannot be surprized at any thing that may occur. When I see the Republicans, and Federalists, Radicals, and Liberals; when I remember how you stood in 1821–2, and how in 1824, and see how easily you came together, I do not despair of again meeting many of my old friends. When I remember the open hostility and secret plots, the charges and criminations, the violence and abuse, and now witness the reconciliation, the harmony and union, I am ready to ac-

knowledge the wonderful and magical effect of the spirit of party, which can soothe the irritation, and heal the wounds it makes. It is a panacea, perfectly infallible, no matter how furious the struggle, or how violent the conflict.

Mr. President, I intended to have spoken upon several subjects of great public interest in relation to the Lands, but I find I have not time. It was my purpose to have taken this occasion to shew the power of Congress over the public Lands. That the Lands were "ceded to the States to be disposed of for the common benefit," before the adoption of the Constitution, and are held only under this obligation to dispose of them, and not subject to any restrictions and limitations of the Constitution. What the *common benefit* is, must depend on the determination of Congress. Under this construction, Congress have made contracts with the new States, and have given land for schools, colleges, (when they could not give money under the Constitution,) for roads and canals, and other objects for the public benefit. I shall take another occasion to present my views on that subject, to shew to what various and useful purposes they may be applied.

I proposed also, to have said something about the changes proper to be made in the land system, after the payment of the public debt. I will merely say, that the present price ought to be retained for the sales, so as to prevent the purchase of large quantities of land in States, by individuals, on speculation. That the actual settler ought to have it for half price; that as soon as practicable the lands ought to be classed, and the price graduated to the quality; that each of the new States, especially Louisiana, Mississippi, Missouri, ought to receive the same quality of land as the other new States for internal improvement, &c.

I will take leave to say before I conclude, that no law or regulation will hasten the sales of the lands, unless they are sold on speculation. There are a certain number of persons, who annually arrive at manhood, who require about a million of acres of land, and beyond that there is no demand. They must be supplied, or they must settle on the public lands, and the easier the terms on which they are supplied, the better for the people and for the country.

Sir, it has been said that this Resolution is the last act in that system of hostility to the West, which has made so great a figure in this debate. The honorable gentleman from Connecticut, who performs his duty with great industry and zeal, perceived what had almost escaped me, that we had more than 200,000,000 of acres of land surveyed and ready for market, that we only sell about a million a year, and that we should not at that rate sell in 150 years the land already surveyed, and therefore very naturally proposed to inquire into the expediency of stopping the surveys, &c. Sir, it is true we have more land surveyed then necessary; there have been, heretofore, though not latterly, great impositions and frauds practised upon the Government, and there are large quantities of poor land, of pine woods and prairies, that will never sell. This department has been within a few years better managed. I think I may venture to say for the honorable mover, that the idea of retarding the growth or preventing the sales of the land in the West, never entered his mind.

Mr. JOHNSTON then gave way to a motion to adjourn.

APPENDIX.

TREASURY DEPARTMENT,
General Land Office, February 8, 1830.

SIR: In reply to your note of this morning, I take leave to advise you that, on the 30th June, 1820, when the credit system of land sales was abolished, the debt due by purchasers of public lands was above *twenty-one millions and a half of dollars.*

On the 30*th September*, 1817, the debt was about *eight millions* of dollars.

I have the honor to be, with great respect,
Your obedient servant,
GEO. GRAHAM.

Hon. J. S. JOHNSTON, *Senate U. S.*

By the operation of the laws of relief, from and since 2d of March, 1821, the debt was reduced from upwards of twenty-one millions and a half, to seven millions, before April, 1825.

***STATEMENT** of lands sold, lands relinquished to the United States, and payments made by purchasers of public lands, to 31st December,* 1829.

STATE OR TERRITORY.	NETT SALES, AFTER DEDUCTING LANDS RELINQUISHED AND REVERTED TO THE U. STATES.		LANDS RELINQUISHED TO THE UNITED STATES.		PAYMENTS MADE BY PURCHASERS.
	Quantity.	Purchase money.	Quantity.	Purchase money.	
	Acres. Hds.	*Dolls. Cts.*	*Acres. Hds.*	*Dolls. Cts.*	*Dolls. Cts.*
Ohio	9,274,578 60	16,813,325 60	432,875 31	1,038,615 54	16,561,378 98*
Indiana	3,818,842 33	6,197,835 80	704,315 82	1,427,466 44	6,284,670 48
Illinois	1,486,497 91	2,510,519 99	697,334 89	1,401,512 06	1,931,098 70
Missouri	1,432,874 05	2,452,910 77	709,346 35	2,004,698 77	2,293,748 46
Mississippi	1,366,864 72	2,353,982 74	188,990 40	377,980 87	2,153,739 49
Alabama	3,163,794 40	7,536,081 05	1,842,534 56	8,649,400 38	7,712,914 71
Louisiana	200,128 06	458,894 67	1,698 62	3,797 25	446,525 27
Michigan	479,118 80	663,453 94	25,196 94	79,844 23	652,583 89
Arkansas	62,302 45	78,021 79	- -	- -	78,021 79
Florida	337,360 69	457,893 56	- -	- -	457,893 27
	21,622,362 01	39,522,919 91	4,602,292 89	14,983,315 54	38,572,575 04
Amount paid by the State of Pennsylvania for the triangle of land on Lake Erie, in the year 1792 - - - - -					151,640 25
				Grand Total - -	38,724,215 29

* Including sales at New York and Pittsburg, sales to Ohio Company, and J. C. Symmes.

APRIL 2, 1830.

MR. PRESIDENT:

I see rising in this country a new party, under a new organization, and under high auspices, that, whatever may be its aim or its object, tends inevitably to weaken the bonds of the Union. A party, founding themselves upon State rights, in contradistinction to the rights of the General Government. Under this banner we see a systematic and combined attack upon this Government, that will destroy the confidence and undermine the affections of the People.

All the objections urged to this Constitution before its adoption, are revived to create prejudice and excite alarm. We are told there are no checks—that "it is an uncontrolled majority, and an uncontrolled majority is a despotism." It is said to be a foreign Government, and that the States are foreign to each other. It is said to claim unlimited powers; to aim at encroachment upon the proper powers of the States; that it tends to a great consolidation that will annihilat the States, and destroy the liberty of the People; and, that the only means of protection for the People and the States, against this overweening despotism, is the power to negative her laws.

The People are told that the laws are unequal and oppressive; that they are palpable, dangerous, and deliberate violations of the Constitution.

There is a general tendency to bring the Government into contempt, and render it odious. We hear of the abuse of the power of Congress and of the administration. We hear of extravagant expenditure; of bargain, and intrigue, and corruption; of the rigorous conduct of the Government in relation to the lands; of the unequal distribution of money; of wild and profligate schemes of improvement; and, we see attempts to excite sectional hostilities. The press groans under whatever can prey upon the minds, and provoke the resentment of the People.

Sir, this is not all—nor, I fear, the worst. There is a deliberate attempt to undermine the power and destroy the confidence of the country in the Supreme Court—that great tribunal upon which this Union rests—is an object of combined attack.

This court, created by the Constitution for the decision of all cases arising under it, as a common arbiter between the Government and the members that compose it, "this more than Amphictionic Council," it is said, is the creature of the Government, and not the

umpire of the States; that it tends, by the course of its decisions, to extend its jurisdiction, and to a consolidation, *not of the Union*, but of the Government; that there is no security for the States against its encroachments.

It is said, that, "after the Book of Judges, comes the Book of Kings;" and high authority is quoted to shew that "they are the *sappers and miners* of the Constitution." Examples of tyranny, drawn from the worst times of judicial history, are presented, and the victims carried from the dungeon to the scaffold, are exhibited to excite prejudice and disgust. It is said they are always the tools of power; that they have never been independent; that they are a "subtle corps," "working under ground to undermine the founda-"tion of our confederated fabric;" "that they have been, with "constancy and silence, like the approaches of death, sliding onwards "to consolidation, giving a diseased enlargement to the powers of "the General Government, and throwing chains over State rights;" "that they will lay all things at their feet."

Sir, this is not all. The gentleman from New Hampshire has boldly charged the court with *prostrating* the rights of the States, and has enumerated the cases. And how have they prostrated the rights of the States? By assuming a jurisdiction? By improper construction? By erroneous opinions? Neither are pretended: but, because this court, in protecting the rights of the People of other States, in guarding the Union against the exercise of the inhibited powers by the States; in maintaining the Constitution and laws of the Union, and preventing the violation of the obligation of contracts, the very object of its institution, decide against the claims and rights of the States; it is said the States are *prostrated;* that *the court is "putting chains on the States,"* and "laying all *things at their feet.*"

Sir, if these judgments were erroneous, they would be impeached; if the authority was assumed, it would be challenged. It is a power expressly confided to them; and how could this Government move a day without a Supreme tribunal to decide all controversies of this kind; and yet it remains to be seen whether this Court, created by the Constitution, without power or patronage, depending upon its virtue and talents to sustain itself in public opinion, and which is essential and indispensable to the existence of this Union—can stand against these numerous, combined, and powerful assaults; or, whether public confidence will be destroyed, the authority of the court impaired, the Constitution become a dead letter, and the Union dissolve by its own weakness.

The People have an habitual and cordial love and veneration for the State institutions, under which their property, their liberty, and their happiness, are secured; there is no feeling of jealousy or hostility to them; there is no meditated attack upon their rights or privileges. We are all their guardians. But this General Government, which is designed to protect the States; to guard them from danger from abroad; to secure them domestic tranquillity at home; to give them peace and commerce—is not so ardently cherished. There is less at-

tachment, more jealousy of its power and its encroachments, more centrifugal tendencies. The tie that binds the Union is more feeble; many causes are operating to weaken it; and, openly assailed from every quarter, it remains to be seen, whether the People will defend it, or, whether it has energy to preserve itself.

It becomes the duty of every enlightened statesman and honest patriot, to "support the State Governments in *all their rights*, as the "most competent administrations for our domestic concerns, and to "preserve the General Government *in the whole of its constitutional* "*vigor*, as the sheet anchor of our peace at home, and safety abroad," and to give to the Court as much confidence as will sustain it firm and unmoved, and unawed, in the legal administration of our affairs.

Mr. President, the right of a State in this Union to annul an act of Congress, presents a grave question to our consideration. It is a question of the first impression, and of the deepest import; which ought not to be discussed under the excitement of party spirit, the influence of passion, or the peculiar circumstances in which any of us may find ourselves. It should be approached under a deep sense of the momentous consequences to the People, to the Union, and to the country it involves.

Sir, I shall speak on this question, not as a lawyer and a statesman—that has been done already, in an able and masterly manner—I shall speak of it as a man and a citizen, whose hopes and happiness are embarked with those of his constituents in this great experiment, "the world's last hope."

It is now said the individual States have a veto on the laws, and, thereby, a power to suspend their operation, by which this Government is made to depend upon the will of each and every State.

The right of States to annul the laws and suspend the operations of the Government, is not derived from the Constitution, but is a high and transcendental power, above the Constitution and above all law; it is an abstraction from the idea of sovereign power, and a refinement on the theory of government. The People of the States have not delegated this veto to the Legislatures; it is a judicial, not a legislative power; if it pertains to the sovereign power of the State, it must be a reserved power to the People, to be exercised by them in their sovereign capacity. But, whether a State, or the People of a State, have the right to a negative on the laws, is a question to be determined by whom? By the State?—That is to be the judge in its own cause. Or, to be submitted to the majority of the People of all the States? Or, to the Supreme Court?—It is a "controversy in which the United States are a party."

Admitting the power of the State, and the right to decide for herself, then each and every State in the Union has a constitutional veto on the laws of the United States; then the General Government must, or perhaps each of the States, must have a similar power to suspend the laws of any other State, when it exercises any sovereign power that is inhibited to the States, or that comes in collision with the General Government and of this also, the Government; and each State must decide for itself. What a scene of confusion!

Again : each State then, and the smallest State, with the smallest majority in the State, may suspend the laws within her jurisdiction. Then the action of the Government must depend on the concurrent will of each and all the States. Then the laws made by a majority of the People, and of the States, may be controlled and counteracted by a small, nay, the smallest minority. The Government, if it could be so called, would be absurd in theory, and impracticable in principle.

By the Constitution checks and balances were provided—majorities required—a veto conferred on the President, and a Supreme Court to decide all questions under the Constitution. All which were ridiculous precautions, if each State could exercise the veto, decide all questions for herself, and annul the expressed will of the majority. And what then becomes of the great political maxim, "that absolute acquiesence in the decisions of the majority, the vital principle in republics, from which there is no appeal but to force, the vital principle and the immediate parent of despotism."

If this veto is the legitimate right of a State, she ought not to be controlled, resisted or coerced. She may therefore peaceably withdraw from the Union, and must virtually dissolve the Union, because the laws must cease to operate, (the Tariff for example,) unless they operate throughout: and besides, could the Union continue, separated by an intervening State? This Union can then only exist as long as twenty-four States concur in opinion. If this principle is true, it ought to have been inserted in the Constitution. But it was not. And if the principle is acknowledged, then this Constitution was not only imperfect in its organization, but is a political monster, born incapable of living, and containing a principle of self destruction.

The Union must dissolve peaceably, whenever the caprice, the passion or the ambition, of a few aspiring men of a State may will it, or it must be maintained by force. It is either disunion or civil war, or in the language of the times, *disunion and blood.*

It is time to calculate, not the value, but the duration of the Government.

But we are told no such consequences will ensue. That it is a safe remedy—a necessary check—a salutary restraint upon this uncontrolled majority—a new balance in the Constitution, that will regulate all its motions. As soon as this new State power is acknowledged, there will be no more unconstitutional laws, no further encroachment on the rights of the States. "The injured and oppressed State will assume her highest political attitude." She exercises her negative preventive power, she declares the law void, "the necessary "consequence" says the gentleman from Tennessee, (Mr. GRUNDY,) "is, it must cease to operate in the State, and Congress must acquiesce, by abandoning the power, or obtain an express grant from "the great source from which all power is drawn. The General "Government would have no right to use force." "This will at all "times prove adequate to save this glorious system of ours from "disorder and anarchy." The parties claiming to exercise the pow-

er, must call a Convention of the States, and unless three-fourths of the States will consent to amend the Constitution, and confer the power, it must cease to exercise it. Thus a law passed in the usual form, with majorities in both Houses, approved by the President, may be annulled, by the veto of any State, and every power taken from Congress, unless three-fourths of the States are now willing to grant it. Let us see how this will operate. Suppose the 25th section of the Judiciary act annulled, the jurisdiction of the Court over all cases provided for by it must cease. Again—the Tariff has been declared a palpable violation of the Constitution : it must therefore cease to operate ; then the Supreme Court must not take any cognizance of any case arising under it, and Congress must not employ force ; it is therefore unnecessary to resist the laws, and there will be no rebellion or treason. But then, there will be no revenue. Congress has a right to lay duties for revenue. How much of this Tariff is for revenue ? for so much it is constitutional, as well as duties on articles not made in the country, and therefore not for the protection of domestic industry. What must be done in such a dilemma ?

Every power which has been at any time denied to Congress, would have ceased. The Bank, after it had gone into operation, would have been compelled to shut its doors, and close the concern. All crimes not *enumerated* in the Constitution would be stricken from the Statute Book : the Embargo would have been declared inoperative ; the 25th section of the Judiciary act would have been rendered void; the Cumberland Road, and subscriptions to canals, grants of land, and all Internal Improvement, would have been suspended on the veto of a single State. The Judiciary law could not have been repealed, and Louisiana and Florida could not have been acquired.

Such is the *vis inertia*, that it is extremely difficult to get more than a bare majority for any measure. Some do not like its principle or its policy : Some are indisposed to change : some do not like the time or the mode of proposing it. There are always reasons enough, for opposing any proposition. Most great questions in deliberate bodies are carried by small majorities. The Embargo—the War—the Bank—the Tariff—are striking instances. The Constitution of the United States was adopted in Virginia, 89 to 79. Her late Constitution was passed by a majority of only 15. It cannot therefore be reasonably expected, that three-fourths of the States will ever concur in granting any power to Congress, that may be previously declared unconstitutional. The powers of the Government will be constantly frittered away, until it has no power to do good—no means to protect—no energy to act—no principle of union.

But is the theory true, that, when the majority has pronounced, and the presumptuous are all in favor of the law, and it is suspended at the instance of a single State, that Congress are to be presumed in error, and must obtain the sanction of three-fourths of the States. Is it not, rather, more compatible with the theory and principles of the Government, that the complaining party, the resisting State, should call the Convention and make the appeal, and assure herself that she is right. A majority can repeal the law, and save further trouble.

This negative is supposed to be necessary to the security of the

States, and the protection of the minority ; but its real operation will be to destroy the force and energy of the administration. "What "may at first sight appear a remedy, is, in reality, a poison ; to give "the minority a negative upon the majority, which is always the case "when more than a majority is requisite to a decision, is, in its ten- "dency, to subject the sense of the greater number to that of the les- "ser. Congress, (under the Confederation) from the non-atten- "dance of a few States, have been frequently in the situation of the "Polish Diet, when a single *veto* has been sufficient to put a stop "to all their movements. The sixtieth part of the Union has seve- "ral times been able to oppose an entire bar to its operations. This "is one of those refinements, which, in practice, has in effect, the "reverse of what is expected from it in theory."—*Federalist.*

The wise men who framed this Constitution, knew, from the defects and infirmities of the Confederation, what was necessary to remedy the errors and correct the evils of that system. They knew that it had been, in its operation upon States only, totally inadequate to the object of its institution ; that this Government must look beyond the States, and operate directly through the agency of the People, and upon the People. They knew the necessity of a high court, to decide all questions arising under it ; the want of a judiciary power crowned the defects of the Confederation. "Laws are a dead letter, "without courts to expound and define their true meaning and opera- "tion." "This is more necessary, when the frame of the Govern- "ment is so compounded, that the laws of the whole are in danger of "being *contravened by the laws of the parts.*"—[*Federalist.*]

They knew it was necessary to have a power to decide on all cases that contravened the authority of the Union, and to prevent the exercise of the inhibited powers by the States, and all other questions which it was foreseen might arise under the new Government. This presented a question of exceeding great difficulty ; two plans were proposed, one to give power to the General Government to revise the laws of the States, and, the other, the right to use force. Mr. Pinkney proposed "to render these prohibitions effectual, the Legislature "of the United States shall have power to revise the laws of the se- "veral States, that may be supposed to infringe the powers exclu- "sively delegated by this Constitution to Congress, and to negative "and annul such as do."

Mr. Randolph proposed—"The Legislature to negative all laws "passed by the several States, contravening, in the opinion of the "National Legislature, the articles of Union, or any treaty, and to "call forth the force of the Union against any member of the Union "failing to fulfil its duty under the articles thereof."

Upon more mature consideration, however, it was determined to extend the jurisdiction of the Supreme Court to all cases that could arise under the Constitution, or the laws, or treaties. It was essential to make the judiciary power co-extensive with the legislative power.

The Constitution, therefore, provided that the judicial power should extend—

To all cases in law and equity arising under the Constitution.
under the laws of the United States.
of treaties made by them.
affecting ambassadors, ministers and consuls.
of admiralty and maritime jurisdiction.
Controversies wherein the United States are a party.
between two or more States.
between a state and citizens of another State.
between citizens of different States.
between citizens of the State claiming lands under grants of different States.
between a State or citizen and foreign States' citizens or subjects.

Here is power granted to try all imaginable cases that can be described—all cases in law, equity, admiralty, or maritime jurisdiction—all that arise under the laws and constitution, and treaties, and then it extends to all controversies in which the United States may be a party, and especially those that arise under the constitution and in execution of the laws. Cases in general must operate upon individuals and corporations, and not upon sovereign States. Thus for example under the Tariff, if the goods are introduced and not entered, they will be seized under the revenue laws—then it is a question in law arising under the laws of the United States; if they resist the seizure, it is opposition to the laws; the courts will proceed to judgment, and the President is authorized to call on the Executives of the States for the militia to execute the laws. If they refuse the militia, on the call of the President, then it is the Massachusetts case—if they oppose the laws by force how will they escape the crime of treason, and how will that differ from the western insurrection? and all these are controversies in which the United States are a party; if they enter the goods, and suit is instituted on the bond, the court will hear any defence, but they must decide, although the constitution, the power of the United States, or the sovereign power of a State, may be incidentally drawn in: when judgment is obtained and execution issued, notwithstanding a sovereign State may be interested by her agents, it must be executed as in the Pennsylvania case to which I shall presently advert.

It is a suit arising under the laws, and a controversy in which the United States are a party, and therefore within the judicial power of the Courts, expressly delegated by the Constitution. The Courts will proceed in the execution of the laws, and in the regular administration of justice. Every law, so far as it acts on individuals, must be enforced by the Courts, and no State law can stop them. All controversies, in which the United States are a party, gives jurisdiction of all cases where her sovereign power is called in question; and all questions of inhibited powers to the States, arise directly under the Constitution.

The laws, in general, operate on the rights of individuals claiming under the sovereign power of the United States. Thus, the sove-

reignty of the United States made a Bank; the sovereignty of Maryland undertook to tax it; the United States denied the right; the Court decided this act of sovereignty on the part of Maryland to tax it, void. Here, the Corporation claim rights under the Constitution and law of the United States; it is under the Constitution, and the *law* of the United States; it will often happen that questions will arise between individuals claiming rights and powers under the two Governments. The wise heads that framed the Judiciary act saw this, and made the necessary provision of the 25th section. This presents an admirable system, perfect in all its parts, harmonious in all its operations; which establishes justice, insures domestic tranquillity, and preserves the Union.

In the other alternative I see nothing but confusion and disorder, and in the end, disunion and anarchy. In pursuance of this organization of the Court, one hundred and seven points or principles have been decided under the Constitution, each of which involved some disputed question with regard to the power of the General Government, or of the States, or of the Courts. It has fulfilled the design of its institution; it has settled most of the doubtful points that necessarily arose in putting this great machinery in operation. It has given form and consistency to the Constitution, and uniformity to the laws. It has preserved its own high character in the midst of political conflicts, and by its purity, elevation, dignity, and learning, maintained the confidence of the People; and it will hold this place as long as its members pursue the even and quiet tenor of their way, high above the hopes of office or the reachings of ambition. But if they enter the political arena, and become aspirants there, they will catch the passions of the people, and the spirit of parties, and they will perform their duties under their influence. They will either conform their opinions to the party they attempt to propitiate, and thus vary them from time to time, or degrade the Court with shameful disagreements, until it becomes a cabal instead of a Court; they will lose as they will deserve to lose, the confidence of the country.

The following list will exhibit the nature and number of the causes decided. The same case is sometimes counted under different heads:

1.	Declaring *acts* of Congress unconstitutional -	2 cases.
2.	constitutional - -	6
3.	Declaring State Laws constitutional - -	9
4.	unconstitutional - -	26
5.	Affirming judgments of State Courts - -	14
6.	Annulling do. do. - -	14
7.	Assenting to appeal Jurisdiction - - -	7
8.	Acquiescing in do. - - -	21
9.	States' parties really and nominally - -	6
10.	incidentally - - -	4
11.	Opinions against the President - - -	2
12.	in favor of the President - -	2
13.	against the Secretary of State - -	2

It may be remarked, that each of these cases involve some principle of sovereign power. The right of the Court to decide then,

between individuals, has not been denied. No State has interposed. The opinions are generally approved by professional men throughout the country. They prove the necessity, and demonstrate the independence of the tribunal. They have decided twenty-six State laws to be unconstitutional ; that is, interfering with the rights of the General Government ; which, considering these as twenty-four States, are not equal to the number of decisions against the acts of Congress ; now upon the principle assumed in debate, of the right of a sovereign to decide these questons of sovereignty for itself, the General Government ought to have declared through Congress, that these acts were void. Each sovereign State, having an interest in the case, would have a right to interpose her veto, and then the State must cease to act under it. But is not this judicial mode much easier and safer ? Suppose the State executes prohibited laws, and there is no tribunal to decide. The two authorities would come directly in conflict. The Court has annulled the judgments of State courts in fourteen cases, which drew in question the Constitution, laws or treaties of the United States, but has affirmed as many, which shows they have no bearing against the rights of States ; and which, if it has had no other effect, has preserved the uniformity so essential to the administration of justice under them. It shows also the indispensable necessity of the 25th section of the Judiciary act ; it exhibits the fact, that, while only eight questions have arisen on the constitutionality of acts of Congress, thirty-five have occurred on that of State laws. In all these cases the line has been distinctly drawn between the two powers, and the two jurisdictions ; all parties acquiesce, and the whole system moves with the greatest harmony.

But it is said they are the creatures of the Government. How ? They are members of the States, created by the People and by the States, to decide for all the People, and for all the States. They decide principles that act every where, and upon every class and interest, and must operate in all time. They must sustain the jurisdiction you have conferred on them, and no more. Their character, talents, and fame are the best security and the highest guarantee for the faithful performance of their duty. They are selected for their signal qualifications, and will probably be of the dominant party when appointed ; they are independent in their office ; they decide before the whole country, and under the scrutiny of a learned and watchful profession, and subject to the jealous care of the State tribunals. The Court is permanent, whilst the executive and legislative branches are continually changing. Opinions, parties and men are undergoing constant revolution, while the principles of the Government, the construction of the Constitution, and the interpretation of the laws remain fixed. The Judiciary is the only principle of stability in the Government.

It was undoubtedly the intention of the Convention to constitute a Supreme Court, to decide all cases of law or sovereignty, and the words are as general and as ample as the language admits. But, in addition to this, it is the duty of the President to take care that the laws be faithfully executed, and Congress have power to provide, and

they have provided, that the President may call forth the militia, to execute the *laws of the Union*, suppress insurrections, and repel invasions. Besides, the Congress have power to suspend the Habeas Corpus in cases of *rebellion* and invasion. This superintending power of the Government was understood perfectly by the framers of it. To secure the citizens of the respective States from being punishable as traitors to the United States, when acting expressly in obedience to the authority of their own State, it was proposed, in the Convention, to add: "Provided, that no act or acts done by one or more of "the States, against the United States, or by any citizen of any one "of the United States, under the authority of one or more, shall be "deemed treason, or punished as such; but, in case of war being le-"vied by one or more of the States, against the United States, the "conduct of each party towards the other and their adherents, re-"spectively, shall be regulated by the laws of war and of nations." Which was not adopted—which sufficiently explains the views of the Convention. But, after the adoption of the Constitution, the State of North Carolina proposed, as an amendment, that no State should be declared in rebellion but by the consent of two-thirds of the States present—which also was not adopted.

If this is the true interpretation of the meaning of the Constitution, they will take upon themselves a heavy responsibility, who undertake, upon a mere abstract theory of right, to resist or to interfere with the regular and legal operations and functions of the different branches of the Government, at the will and pleasure of the States. Having entered into civil society, and distributed the power into different hands, they contract the obligation of obedience—they are bound by the Constitution, which they have sworn to support.

This question is reduced to a narrow compass. The right to resist an usurpation or a tyranny, is not denied. The right to use all the peaceful modes of redress, not doubted. It has been admitted that the Supreme Court may decide all cases between individuals. But it is said the States now claim the right to decide when the General Government exceed their authority—because that is a sovereign power. I have endeavored to show that the power to decide all questions under the Constitution has been conferred on the Supreme Court; and, if so, the question is concluded, whatever may be the form of the Government.

If this is a pure and simple Confederation of States, they are bound by the Constitution, by all they have stipulated, and they are obliged by their duty and by their oath to submit to the Court all matters of which they have jurisdiction—that is, every case arising under the Constitution and Laws, and *every controversy* in which the United States are a party; and they are moreover bound to show that, to decide on the unconstitutionality of a law, is an exception, and not included in this grant; they are bound to show that, in such a union of States, for certain great objects, each State has a right to decide, definitively, for herself, when the power is exceeded. The Convention intended to provide for all cases that could occur; if they have failed to remedy the evil that was foreseen, they

have made a Government, which, instead of being a splendid fabric of human invention, is utterly impracticable, and which must exist only by the forbearance of the States.

This was the defect of the Confederation—it had not the sanction of the People—it was ratified only by the State Legislatures; and, therefore, reasoning from these theories of Government, it was said each Legislature had a right to repeal the law, and thereby annul the Confederation. It is said, in reply to this, in the Federalist:

"However gross a heresy it may be to maintain that a party to a "compact has a right to revoke that compact, the doctrine itself has "had respectable advocates. The possibility of a question of this "nature, proves the necessity of laying the foundations of the Na- "tional Government deeper than in the mere sanction of delegated "authority. The fabric of American Empire ought to rest on the "solid basis *of the consent of the People.* The streams of National "power ought to flow immediately from the pure original fountain "of all legitimate authority."

The right of a State to annul a law of Congress must moreover depend on their showing that this is a mere Confederation of States, which has not been done, and cannot be said to be true, although it should not appear to be absolutely a Government of the People. It is by no means necessary to push the argument, as to the character of the Government, to its utmost limit; the ground has been taken and maintained with great force of reasoning, that this Government is the agent of the supreme power, the People. It is sufficient for the argument that this is not a compact of States; it may be assumed that it is neither strictly a Confederation nor a National Government: it is compounded of both—it is an anomaly in the political world—an experiment growing out of our peculiar circumstances—a compromise of principles and opinions—it is partly federal, partly national.

"The proposed Constitution is, in strictness, neither National or "Federal—it is a composition of both; in its foundation, it is Fede- "ral, not National; in the sources from which the ordinary powers "of the Government are drawn, it is partly Federal, partly Nation- "al; in the operation of these powers, it is National, not Federal; "in the mode of amendment, it is neither wholly Federal nor wholly "National."—[*Federalist.*]

This was the great question solved by the Convention, Whether this Government should be a Confederation, founded on an equality of States, or a Union, upon the principle of population. The large States contended for representation of the People—the small States for equality of States. The parties were nearly balanced, and upon this ground the great struggle was conducted. A majority of the People could not consent to be governed by a minority in the great concerns of this Government; while the small States thought their safety consisted in maintaining their equal share of the power. A majority of the Convention was in favor of the popular principle—the House of Representatives was formed upon a representation of the People; the States were equally divided in the formation of the

Senate—which led to a compromise, by which that branch was formed on the principle of equality of States, and the election of President was rendered, in the first instance, popular, but upon a compound principle, growing out of the compromise. The Confederation was abandoned, as too defective to remedy; the federative principle was retained, so far as to protect the rights of the small States, while it preserved those of the People of the large States, by the division and organization of the Legislative department, by which no law or treaty can be made without the concurrence of a majority of the People and of the States. The rights of both were farther protected by the veto of the Executive. The States are a part of the machinery of the Government, and constitute one great whole, and 'a more perfect Union,' under the style of "We the People of the United States." This Government, thus constituted, for certain purposes, acts for the People collectively, and directly upon the People of the Union, without any reference to the States. It does not act by States, or upon the States. It levies taxes, imposts, and duties, upon the People; it administers justice in the States, upon individuals; it commands the militia, &c. Now, having entered into this Government, by whatever name it may be known, so checked and balanced, with so many guards and precautions, what is the principle upon which it is founded? Certainly, that a majority of the People and of the States should pass all laws, and that these should be the supreme laws of the land, and that every question of power under the Constitution and laws, should be decided by the Supreme Court.

This, I think, has been shown by the substitution of the Supreme Court in the place of the other modes recommended, to give Congress the control of the State laws. By giving, in express terms, jurisdiction of all controversies in which the United States are a party, by the cotemporaneous construction of the Constitution in the Judiciary act; by declaring the laws supreme; by giving the President power to call out the militia, and making it his duty to execute the laws. The Court has uniformly exercised jurisdiction, which has been approved, on an open appeal to the States. The President has carried the judgments, by force, into effect. The State tribunals have acknowledged the authority, and such is now the opinion of three-fourths of the People and of the States of this Union.

It was believed, by those who framed the Constitution, that the laws would be supreme, and would be enforced by the National Judiciary. Mr. Monroe, in his message, in December, 1824, says, the Supreme Court "decides, in the *last resort*, on all great ques-
" tions which arise under our Constitution, involving those be-
" tween the United States, individually between the States and the
" United States." Chief Justice Spence, 19 Johnson 164, says, "I
" consider that Court as paramount, when deciding on an article of
" the Constitution, and an act of Congress passed under its express
" injunction."

In the case of Cohens vs. Virginia—"It (the Counsel) maintains
" that, admitting the Constitution and Laws to have been violated by
" the judgment, it is not in the power of the Government to apply a

"corrective. They maintain that the nation does not possess a de-
"partment capable of restraining, peaceably, and by authority of
"law, any attempts which may be made, by a part, against the legi-
"timate powers of the whole; and that the Government is reduced
"to the alternative of submitting to such attempts, or of resisting
"them by force; they maintain that the Constitution of the United
"States has provided no tribunal for the final construction of itself,
"or of the laws or treaties of the nation, but that this power may
"be exercised, in the last resort, by the Courts of every State in
"the Union." The Court, however, decided in favor of the power of the Court.

It has been objected by the gentleman from South Carolina, [Mr. SMITH] that a bare majority of the Supreme Court may decide the most important questions of State rights. The answer is, that no provision was made in the Constitution—none was thought necessary. It is in the power of Congress at all times to change it, and to require a large majority. This has been tried, and always resisted.

It is objected, that when the Court is composed of seven, there may be three on each side, and one may decide; but this is favorable to the States, for if they affirm the constitutionality of a law, they only sanction what has been previously declared by all the other branches of the Government. If a majority of one member decides against the law, his opinion countervails the weight of all the majority by which the law was passed; so that when the constitutionality of a law is doubted, a single member, when there is a disagreement, may decide against the power of the Government. If more than a majority are required to declare a State law unconstitutional, by parity of reason, more than a majority must be required to declare an act of Congress unconstitutional.

Having examined the question upon principle, let us see if there is any precedent or authority for it. I believe there are but two gentlemen who have avowed the opinion. The gentleman from New Hampshire marched boldly up to the very boundary of the question, and stopped short; he refused to vouch for the nullifying power, by which I infer it is not, in his opinion, the true *democratic doctrine.*

There is no precedent except the Virginia and Kentucky resolutions; they are merely declaratory that the States are parties to the compact, and that, in case of a palpable, dangerous, and deliberate violation of the Constitution, the State has a right to *interpose.* But how? By annulling the law? No; but by declaring the act of Congress unconstitutional, and referring the question to the other States. It is a protest on the part of the State, and an appeal from Congress to the State authorities, who are also parties. The last Virginia resolution is in these words, after expressing the most sincere affection for their brethren of the other States: "the General
"Assembly doth solemnly appeal to the like dispositions of the other
"States in confidence, that they will confer with this Common-
"wealth in declaring, as it does hereby declare, that the acts afore-
"said are unconstitutional, and that the necessary and proper mea-
"sures will be taken by each, for co-operating with this State, in

"maintaining, unimpaired, the authorities, rights, and liberties re-
"served to the States respectively, or to the People," and for this purpose they were transmitted to the several States.

In the debate, Mr. Mercer said: "The State believed that some "of its rights had been invaded by the late acts of the General Go-
"vernment, and proposed a remedy, whereby to obtain a *repeal* of "them. The plan contained in the resolutions appeared the most ad-
"visable; *force was not thought of by any one.*" "Nothing seemed "more likely to produce a temper in Congress for a *repeal*, than a "declaration similar to the one before the committee, made by a ma-
"jority of States, or by several of them." "We do not wish," said Mr. Mercer, "to be the arm of the People's discontent, but *to use* "*their voice.*" "They (the States) can readily communicate with "each other in the different States, and unite their common forces "for the protection of their common liberty." Mr. Barbour said: "The gentleman from Prince George had remarked, that these reso-
"lutions invited the People to insurrection and to arms; but, if I "could conceive that the consequences foretold would grow out of the "measure, he would become its bitterest enemy," "but it would ap-
"pear, by reference to the leading feature in the resolution, which "was, their being addressed, not to the People, but to the sister "States, praying, in a pacific way, their co-operation in arresting "the tendency and effect of unconstitutional laws."

General Lee, said: "If the law was unconstitutional, he admitted "the right of interposition; nay, it was their duty; every good citi-
"zen was bound to uphold them in fair and friendly exertions to cor-
"rect an injury so serious and pernicious."

But the object of these resolutions is more clearly and explicitly set forth by Mr. John Taylor, who introduced the resolutions. In his reply to the apprehensions of civil commotion, to which the resolutions were said to have a tendency, he said: "Are the Republicans possessed "of fleets and armies? if not, to what could they appeal for defence "and support? To nothing but public opinion—if that should be "against them, they must yield. They had uttered what they con-
"ceived to be truth, in firm, yet decent language; and they had pur-
"sued a system which was only an appeal to public opinion."

He maintained that the 5th Article of the Constitution had provided a remedy against encroachments by Congress on the States, upon the rights of the other, by the article—"Two-thirds of Congress may "call upon the States for an explanation of any such controversy as "the present, by way of amendment to the Constitution, and thus "correct an erroneous construction of its own acts, by a minority of "the States, while *two thirds of the States* are also allowed to com-
"pel Congress to call a Convention, in case so many should think "an amendment necessary for the purpose of checking the unconsti-
"tutional acts of that body." He said "the will of the People and "the will of the States, were made the constitutional referee in the "case under consideration. The State was pursuing the only possi-
"ble and ordinary mode of ascertaining the *opinion of two thirds* of "the States, by declaring its own, and asking theirs. He hoped

"these reprobated laws would be sacrificed to quiet the apprehen-
"sions even of a single State, without the necessity of a Convention,
"or a mandate from three fourths of the States. He said, "firmness
"and moderation could only produce a desirable coincidence between
"the States." "Timidity would be as dishonorable as the violent
"measures which gentlemen on the other side recommended, in cases
"of constitutional infractions, would be immoral and unconstitu-
"tional."

Thus it appears that there is nothing in these resolutions that looks to the right of the State of Virginia herself to annul an act of Congress; on the contrary, it is the very reverse. It is a declaration that the law, in their opinion, violates the Constitution, that the State has a right, as a party to the compact, to *interpose*, by referring it to the consideration of the other parties to the compact: the language is too plain, and too explicit, to require comment.

Two very important amendments were introduced, which evinced still further that it was not their intention to annul the laws, or to claim the right to interpose in that way.

The first was: they declared, in the first of the resolutions, that the alien and sedition laws were unconstitutional, *and not law, but utterly null and void, and of no force or effect.* These nullifying expressions were stricken out, upon the motion of Mr. Taylor himself. They were, no doubt, originally inserted merely to express the opinion that the necessary effect of their being unconstitutional was that they were not law, and null and void; but it is evident, it was not in the contemplation of the Legislature, or of the author of them, that the Legislature, who was merely submitting the subject by way of appeal to the other States, could make the laws void by their declaration. Mr. TAYLOR said the plan proposed might eventuate in a Convention. He did not admit or contemplate that a Convention might be called; he only said that if Congress, upon being addressed to have the laws repealed, should persist, they might, by a concurrence of three-fourths of the States, be compelled to call a Convention.

The second amendment was in the third clause.—"The compact in which the States *alone* are parties." The word *alone*, stricken out on the motion of Mr. GILES. It had been said that the *People only* were the parties to the compact, and the resolutions declared the *States alone* were parties. Mr. GILES said "the General Government was partly of each kind;" and therefore, moved to strike out alone.

The opinion of Mr. JEFFERSON, which has been quoted in this debate, relative to calling a Convention, the proper arbiter in questions of sovereignty, correspond with those of the Legislature. In his letter to W. C. Nicholas, in September, 1799, then about to proceed to Kentucky, directing what was necessary to avoid the inference of acquiescence, and to procure a concert in the general plan of action, recommended resolutions, 1st, answering the committee of Congress and the States that replied: 2d, making protestation against the prece-

dent and principle, and *reserving* the right of making this palpable violation of the Federal compact, the ground of doing in future whatever we might now rightfully do, should repetitions of these and other violations of the compact, render it expedient: 3d, expressing in affectionate and conciliatory language our warm attachment to union with our sister States, and to the instrument and principles by which we are united." He says "Mr. MADISON does not concur in the reservation proposed above, and from this I recede readily, not only in deference to his judgment, but because, as we should never think of separation, but for repeated and enormous violation; so these, when they occur, will be cause enough of themselves."

I hold in my hand a letter from George Nicholas of Kentucky, in November, 1798. He was a conspicuous member of the Virginia Convention—an able lawyer and statesman—a distinguished Republican, and a leading and influential man, in the day of the Kentucky resolutions. I read from this letter to show the views entertained then of the remedy against unconstitutional laws. "If you had "been better acquainted with the citizens of Kentucky, you would "have known, that there was no just cause to apprehend an improper "opposition to the laws from them. The laws we complain of may be "divided into two classes, those which we admit to be constitutional, "but consider as impolitic, and those which we believe to be uncon-"stitutional, and therefore do not trouble ourselves to inquire as to "their policy, because we consider them as absolute nullities. The "first class of laws having received the sanction of a majority of the "representatives of the People of the States, we consider as binding "on us, however we differ in opinion from those who passed them as "to their policy; and although we will exercise our undoubted right "of remonstrating against such laws, and demanding their repeal as "far as our numbers will justify us in making such a demand: we "will obey them with promptitude, and to the extreme of our abili-"ties, so long as they continue in force. As to the second class on "the unconstitutional laws, although we consider them as dead "letters, and therefore that we might legally use force in opposition "to any attempts to execute them; yet, we contemplate no means "of opposition, even to those unconstitutional acts, but an appeal to "the *real laws* of our country. As long as our excellent Constitu-"tion shall be considered as sacred, by any department of our Go-"vernment, the liberties of our country are safe, and every attempt to "violate them may be defeated by means of law, without force or "tumult of any kind." He quotes the following to Hamilton: "The "complete independence of the Courts of Justice is peculiarly "essential in a limited Constitution, by a limited Constitution I "understand one which contains specific exceptions to the legislative "authority, such for instance, as that it shall pass no bill of attain-"der, no *ex post facto* and the like; limitations of this kind "can be preserved in practice, no other way, than through the "medium of the Courts of Justice, whose duty it must be to de-"clare all acts contrary to the manifest tenor of the Constitution

"void. Without this, all reservations of particular rights or privi-
"leges amount to nothing." "It is more rational to suppose, that
"the courts were designed to be an intermediate body between the
"People and the Legislature, in order, among other things, to keep
"the latter within the limits assigned to their authority. The in-
"terpretation of the law is the proper and peculiar province of the
"courts. A Constitution is in fact, and must be regarded by the
"judges as a fundamental law. It therefore belongs to them to as-
"certain its meaning, as well as the meaning of any particular act,
"proceeding from the Legislative body. If there should happen to
"be any irreconcileable variance between the two, that which has
"the superior obligation and validity ought, of course, to be prefer-
"red; or, in other words, the Constitution ought to be preferred to
"the statute, the intention of the People to the intention of their
"agents." "As long, therefore, as the Federal Courts retain their
"honesty and independence, our Constitution and our liberties are
"safe;" "but resistance ought not to be appealed to, except in cases
"of extreme danger and necessity: let all good men unite their efforts
"to prevent the U. States from being brought to that crisis." On the 14th November, 1799, four days after this letter, the Kentucky Legislature entered its solemn *Protest* against the laws which had been declared unconstitutional. The States of Maryland and Ohio had questions about the Bank of the U. States, which were submitted to the Supreme Court. The constitutionality of the embargo, which involved an immense amount, was settled by the Supreme Court. In fine, every question that has arisen in forty years, under the Constitution, has been satisfactorily settled; and they have established many great and difficult principles which have now become the settled rule of construction and the law of the land; and they will go on in the execution of this high duty, until they are stopped by the want of power in the Executive to execute the judgments of the Court, the power of a State to annul the laws, to the contrary notwithstanding.

But, happily for us, this question of the power of the Court, and the necessity and expediency of establishing another tribunal to decide on cases involving the sovereign power of the two Governments, has been formally submitted to the States, in a strong case, by a large State, and under the most imposing forms; and was as solemnly rejected. The State of Pennsylvania, in 1809, complained of an infringement of her State rights, by an unconstitutional exercise of power in the United States' Courts; that no provision had been made in the Constitution for determining disputes between the General and State Governments, by an impartial tribunal, when such cases occur. The Legislature "*Resolved*, That, from the construction which "the United States' courts give to their powers, the harmony of the "States, if they resist encroachments on their rights, will frequent-"ly be interrupted; and if, to prevent this evil, they should, on all "occasions, yield to stretches of power, the reserved rights of the "States will depend on the arbitrary power of the courts."

"To prevent the balance between the General and State Governments from being destroyed, and the harmony of the States from being interrupted, *Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure an amendment to the Constitution of the United States, that an impartial tribunal may be established, to determine disputes between the General and State Governments."

These resolutions were submitted to all the States. I hold in my hand the answers of nine States, refusing the proposition, to wit: Virginia, North Carolina, Maryland, Georgia, Tennessee, Kentucky, New Jersey, Vermont, and New Hampshire—without one affirmative State.

Mr. JOHNSTON then read the answer of the State of Virginia—which was agreed to unanimously—as follows:

"*Thursday, January* 11, 1810.

"Mr. Peyton, from the Committee to whom was referred that part of the Governor's communication which relates to the amendment proposed by the State of Pennsylvania, to the Constitution of the United States, made the following Report:

"The Committee to whom was referred the communication of the Governor of Pennsylvania, covering certain Resolutions of the Legislature of that State, proposing an amendment of the Constitution of the United States, by the appointment of an impartial tribunal to decide disputes between the States and Federal Judiciary, have had the same under their consideration, and are of opinion that a tribunal is already provided, by the Constitution of the United States, to wit: the Supreme Court, more eminently qualified, from their habits and duties, from the mode of their selection, and from the tenure of their offices, to decide the disputes aforesaid, in an enlightened and impartial manner, than any other tribunal which could be created.

"The members of the Supreme Court are selected from those in the United States who are most celebrated for virtue and legal learning, not at the will of a single individual, but by the concurrent wishes of the President and Senate of the U. States: they will, therefore, have no local prejudices and partialities. The duties they have to perform lead them, necessarily, to the most enlarged and accurate acquaintance with the jurisdiction of the Federal and State Courts together, and with the admirable symmetry of our Government. The tenure of their offices enables them to pronounce the sound and correct opinions they may have formed, without fear, favor, or partiality.

"The amendment to the Constitution, proposed by Pennsylvania, seems to be founded upon the idea that the Federal Judiciary will, from a lust of power, enlarge their jurisdiction, to the total annihilation of the jurisdiction of the State Courts; that they will exercise their will, instead of the Law and the Constitution.

"This argument, if it proves any thing, would operate more strongly against the tribunal proposed to be created, which promised so little, than against the Supreme Court, which, for the reasons given before, have every thing connected with their appointment calculated to ensure confidence. What security have we, were the proposed amendment adopted, that this tribunal would not substitute their will and their pleasure in place of the law? The Judiciary are the weakest of the three Departments of Government, and least dangerous to the political rights of the Constitution; they hold neither the purse nor the sword; and, even to enforce their own judgments and decisions, must ultimately depend upon the Executive arm. Should the Federal Judiciary, however unmindful of their weakness, unmindful of the duty which they owe to themselves and their country, become corrupt, and transcend the limits of their jurisdiction, would the proposed amendment oppose even a probable barrier in such an improbable state of things?

"The creation of a tribunal, such as is proposed by Pennsylvania, so far as we are able to form an idea of it from the description given in the Resolutions of the Legislature of that State, would, in the opinion of your Committee, tend rather to invite, than to prevent, collision between the Federal and State Courts. It might also be-

come, in process of time, a serious and dangerous embarrassment to the operation of the General Government.

"*Resolved, therefore,* That the Legislature of this State do disapprove of the amendment to the Constitution of the United States, proposed by the Legislature of Pennsylvania."

The Governor of Pennsylvania, by direction of the Legislature, transmitted the proceedings to the President of the United States. He said he was "consoled with the pleasing idea that the Chief Ma- "gistracy of the Union is confided to a man who is so intimately "acquainted with the principles of the Federal Constitution, and "who is no less disposed to protect the sovereignty and *independence* "of *the several States*, as guarantied to them, than to defend the "rights and legitimate powers of the General Government; who "will justly discriminate between opposition to the Constitution and "Laws of the United States, and that of resisting a *decree of a Judge*, "founded, as it is conceived, in an usurpation of power and juris- "diction not delegated to him by either; and who is equally solicit- "ous, with himself, to preserve the Union of the States, and to ad- "just the present unhappy collision of the two Governments, in such "a manner as will be equally honorable to them both." To which Mr. Madison replied: "Considering our respective relations to the "subject of these communications, it would be unnecessary, if not "improper, to enter into any examination of some of the questions "connected with it; it is sufficient, in the actual posture of the case, "to remark, that the Executive of the United States is not only un- "authorized to prevent the execution of a decree, sanctioned by the "Supreme Court of the United States, but is expressly enjoined, by "statute, to carry into effect any such decree, where opposition may "be made to it." He adds, that no legal discretion lies with the Executive to decline steps which might lead to a very painful issue.

The proceedings were transmitted to Congress, who made no report thereon. The Governor of Pennsylvania determined to resist; the marshal proceeded to execute the judgment; the troops were drawn out; but the Governor finally withdrew, and the marshal performed his duty. These are all the authorities I have met with. I have seen nothing that justifies the idea of the power of a State to annul the acts of Congress. They all look to an appeal to the other States —to conventions of the People, or to decisions of the Courts. It is to be regretted that this idea has been suggested: some, in moments of passion, may seek this violent remedy for partial and temporary evils. If the power was undoubted, it is one which might be kept from the people. It is the only secret I would keep from them; the power by which a small majority of a State may produce anarchy, confusion, and civil war. Let us rather teach them how well they are, and how happy they ought to be; how free and how prosperous; shew them the relative condition in the scale of human existence and political society; shew them the miserable state of the mass of the people in every other country; shew them the wretched state of pauperism, and what we have recently read of the condition of a portion

of the people in the freest government of Europe : let us teach them to enjoy the good they have.

It has been said, the People have the power to break down the Government. That is a question of force. The majority can no doubt destroy a Government, as easily as make it. A majority of the numbers are presumed to have a majority of the force, and therefore the minority submit to be governed by them, to avoid an appeal to force. But a minority can no more destroy the Government than they can make one; much less can a single State in a confederacy, claim the right to control and counteract all the other States, unless that power has been conceded to each of the members of the Union by the compact, which is not pretended in this case.

This Government was formed with all the checks and balances that were deemed necessary to protect the minority, whether of the People or of the States. This disposition to the exercise of power in the head, and the tendency to resistance in the members, was well understood. Propositions were made to protect the minority by additional guards; by requiring the concurrence of two thirds. This was rejected in all cases except in the ratification of treaties, and in amendments to the Constitution.

The principle of requiring more than a majority had been tried under the Confederation. It was found to paralyze the arm of the Government; to take from it all energy, all power to exert its own power, and to render it weak and inefficient. It is now said that "constitutional Government and a Government of a majority, are "utterly incompatible; it being the sole purpose of a Constitution "to impose limitations and checks upon the majority. An uncontroll-"ed majority is a despotism; and Government is free, and will be per-"manent, in proportion to the number, complexity and efficiency of "the checks, by which its powers are controlled." Without entering into any discussion upon this abstract theory of Government, which has puzzled the wisest heads and confounded the clearest understandings, it is enough to say, that this is an objection to all Governments, and to the principles of the Constitution, which is not more perfect than any other human invention; but is perhaps quite as free from error and difficulty as any other system that could be devised, and more perfect than any one which the States would now adopt: for no majority will consent to be controlled in the exercise of their powers by a complicated system of checks. But the objection to the power of a majority is as good against all oppressive laws as against unconstitutional laws.

Whatever defects may appear in the theory, in the abstract it must be confessed, it has preserved, so far, domestic tranquillity, provided for the common defence; it has regulated commerce, carried on war, made peace, established justice, and formed a more perfect Union. In fine, it has overcome every difficulty, and surmounted every obstacle; It has proved itself adequate to all the purposes of a great empire in peace or war.

Beyond this Union I do not venture to look: beyond that, all is darkness.

[SPEECH TO BE CONTINUED.]